

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**MICHAEL PAUL SORDEN,**

**Plaintiff,**

**v.**

**CASE NO. 20-3103-SAC**

**LOU MILLER, et al.,**

**Defendants.**

**MEMORANDUM AND ORDER**

Plaintiff brings this *pro se* civil rights complaint under 42 U.S.C. § 1983. At the time of filing, Plaintiff was housed at the Saline County Jail in Salina, Kansas (“SCJ”). The Court granted Plaintiff leave to proceed *in forma pauperis*. (Doc. 3.) On May 6, 2020, the Court entered a Memorandum and Order and Order to Show Cause (Doc. 4) (“MOSC”), granting Plaintiff an opportunity to show good cause why his Complaint should not be dismissed or to file a proper amended complaint to cure the deficiencies set forth in the MOSC. This matter is before the Court for screening Plaintiff’s Amended Complaint (Doc. 5). The Court’s screening standards are set forth in detail in the Court’s MOSC.

Plaintiff alleges in his Amended Complaint that staff at the SCJ denied him mental health care and medications. Plaintiff alleges that he was denied seizure medication for the first month he was at the SCJ. (Doc. 5, at 3.) He also alleges that he was not given “the proper or full amount of medication.” *Id.* Plaintiff seeks \$60,000 in punitive damages.

The Court found in the MOSC that Plaintiff’s allegations do not show a complete lack of medical care, but rather show Plaintiff’s disagreement regarding the proper course of treatment or medication. A mere difference of opinion between the inmate and prison medical personnel regarding diagnosis or reasonable treatment does not constitute cruel and unusual punishment. *See Estelle v. Gamble*,

429 U.S. 97, 106–07 (1976); *see also Coppinger v. Townsend*, 398 F.2d 392, 394 (10th Cir. 1968) (prisoner’s right is to medical care—not to type or scope of medical care he desires and difference of opinion between a physician and a patient does not give rise to a constitutional right or sustain a claim under § 1983).

Plaintiff’s Amended Complaint fails to cure the deficiencies set forth in the MOSC. Plaintiff has failed to show that any defendant was deliberately indifferent regarding his medical care. Plaintiff has failed to show that Defendants disregarded an excessive risk to his health or safety or that they were both aware of facts from which the inference could be drawn that a substantial risk of serious harm existed, and also drew the inference. Plaintiff’s claims suggest, at most, negligence.

The MOSC provided that “[i]f Plaintiff does not file an amended complaint within the prescribed time that cures all the deficiencies discussed herein, this matter will be decided based upon the current deficient Complaint and may be dismissed without further notice.” (Doc. 4, at 7.) Plaintiff’s Amended Complaint fails to cure the deficiencies set forth in the MOSC and fails to state a claim.

**IT IS THEREFORE ORDERED BY THE COURT** that this matter is **dismissed** for failure to state a claim.

**IT IS SO ORDERED.**

**Dated November 6, 2020, in Topeka, Kansas.**

**S/ Sam A. Crow**  
**SAM A. CROW**  
**SENIOR U. S. DISTRICT JUDGE**